

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Police Department – Request of Smt Asifa w/o Late Khaja Moinuddin, Ex.HC 265 for sanction of compassionate allowance – Rejected – Orders – Issued

HOME (SERVICES.II) DEPARTMENT

G.O.Rt.No. 939

Dated:17 -6-2011
Read the following:

- 1.Govt Memo.No.2857/Ser.II/A3/2009, Dated:27-10-2010
2. Orders of the Hon'ble High Court in W.P.No. 306/2011 dated: 29-1-2011
3. From Smt Asifa , w/o Late Khaja Moinuddin, Hyderabad, representation dated: 22-2-2011

Order:

Sri Khaja Moinuddin who worked as Police Constable from 10-11-1942 was dismissed from service on 27-2-1956 for his misconduct. The proposal of the Director General of Police, Andhra Pradesh, Hyderabad, , to consider sanctioning of compassionate allowance was rejected by Government vide Memo.No. 44505/Pol.C2/2000 dated: 6-12-2001. Thereafter, Khaja Moinuddin approached the Hon'ble APAT in OA.No. 1736/2002 and the Hon'ble APAT has dismissed his claims as he has no such right. His subsequent representation was also rejected vide Govt.Memo.No. 6659/Pol.C/2002-1, dated; 13-5-2002. He expired on 14-9-2002. Subsequently his wife Smt Asifa filed a WP in the Hon'ble High Court and the Hon'ble High Court has dismissed the same vide orders dated: 30-5-2005 in WP.No.19034/2005. Thereafter, she has filed another representation to the Government and the Government have rejected the same vide Govt. Memo.No.2857/WNT/A1/2009, dated; 2-9-2009. She has filed an OA.No. 12214/2009 and as per the interim directions of the Hon'ble APAT, Government have again examined the same and rejected the request vide G.O.Rt.No.2292, Home (WNT) Dept., dated: 23-12-2009.

2. Government have also sanctioned an amount of Rs. 25,000/- to the individual under Chief Minister's Relief Fund vide Govt. Memo.No. 46160/CMRF/2007, Revenue (CMRF) Department, dated: 2-2-2008.

3. The issue was examined again by the Government and the request of the applicant for sanction of family pension was rejected in the reference 1st read above.

4. The applicant has again approached the Hon'ble High Court of Andhra Pradesh and in the reference 2nd read above, the Hon'ble High Court has passed the following orders:

“When Rule 40 of the Rules, 1980 empowers the Government to consider the case of the dismissed employee for compassionate allowance, it is imperative that his widow and children should be more favorably be considered for such allowance as exceptional circumstance. We, therefore, consider it that the Government is entitled to consider the case of the present petitioner for compassionate allowance in view of the Rule 40 of the Rules 1980.

We accordingly dispose of the WP directing the Government to consider the case of the petitioner sympathetically taking into consideration the age of the writ petitioner, the fact that she has been suffering from throat cancer and other extenuating circumstances and dispose of the same within four weeks from today”

[Continued ..2]

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5. In view of the above direction of the Hon'ble High Court, the Government have again examined the issue and considered the case of the petitioner in accordance with the directions of the Hon'ble High Court . As per rule 40 of the AP Revised Pension Rules 1980, the authority competent to dismiss or remove him from service, may, if the case is deserving of special consideration, sanction a compassionate allowance not exceeding two-thirds of pension or gratuity or both which would have been admissible to him if he had retired on invalid pension. The said rules were issued vide G.O (P) No. 88 FW dated: 26-3-1980 and came into force on 29-10-1979. But the employee was dismissed on 27-2-1956 itself and the said rules can't be made applicable to him. Therefore the husband of the applicant is not eligible for sanction of the compassionate allowance under rule 40 of the AP Revised Pension Rules 1980. There was nothing like compassionate allowance under the relevant pension Rules which were in force at that time of the dismissal of the husband of the applicant. Even the claim is stale by a half century. The Hon'ble High Court of Andhra Pradesh have also dismissed the earlier WP filed by the applicant in their order dated: 30-5-2005 in WP .No. 19034/2005.

6. Further the consideration of the request of the applicant, which is not as per rules, could become a precedent and lead to similar requests.

7. Keeping all the above factors in view, Government, therefore, hereby reject the request of Smt Asifa @ Khajabee w/o Late Khaja Moinuddin, Ex PC, for sanction of compassionate allowance as per rule 40 of the AP Revised Pension Rules 1980.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

P. GAUTAM KUMAR
PRINCIPAL SECRETARY TO GOVERNMENT

To,
Smt Asifa Khajabee W/o Late Khaja Mohinuddin,
House Wife R/o H.No. 16-3-649/B, Chanchalguda,
Malakpet, Hyderabad

Copy to
The Finance (Pension.II) Department.,
The Director General of Police, Andhra Pradesh, Hyderabad,
The Superintendent of Police, Government Railway Police, Secunderabad
The GP for Services –I, AP High Court, Hyderabad.

// Forwarded:: By order//

SECTION OFFICER